

The University of Chicago

THE ORGANIZATION,
PROCEDURE, AND PERSONNEL OF
THE FRENCH REVOLUTIONARY
TRIBUNAL

A PART OF A DISSERTATION SUBMITTED TO
THE FACULTY OF THE DIVISION OF THE
SOCIAL SCIENCES IN CANDIDACY FOR THE
DEGREE OF DOCTOR OF PHILOSOPHY

DEPARTMENT OF HISTORY

JUNE, 1942

By
JAMES LOGAN GODFREY

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CHAPTER II

THE PERSONNEL OF THE TRIBUNAL

In any study of a judicio-administrative body established in a revolutionary atmosphere and for the purpose of revolutionary action, one of the main considerations should be an appreciation of the persons who as members of that body formulated and expressed its will. Even in the most placid periods of national existence, the forms and operations of institutions cannot be entirely separated from the personalities through which they work; in periods of revolutionary change the formalism of institutional procedure may give way before the influence of personalities, and the important focus of attention shifts from procedure to persons. The revolutionary tribunal, in particular, can be understood fully only in terms of those who composed it, for here is one of the best of the historical examples of the ascendancy of man over the law and the subsequent subversion of the law as a means rather than an end in the revolutionary society. It will also be of interest to observe that just as the tribunal went through five distinct phases of organization in order that it might deal with the particular tension of the moment, so each reorganization had its counterpart in the changes of personnel.

On March 13, 1793, two days after the legislative mandate for the tribunal, the Convention fulfilled the obligation placed upon it by the new law and announced the result of its election of judges. Although but five judges were required, the possibility of rejection was recognized by selecting ten men: five of them to be judges and five to be substitutes, all ranked on the basis of the number of votes received. The official list included the following persons:¹

¹The list is from Archives parlementaires, 1787-1860: recueil complet des débats des chambres françaises, Series I, 1787-1799 (82 vols.; Paris, 1879-1913) (hereafter cited as A.P.), LX, 177, plus additional information as indicated by the symbols.

NAME ¹	DEPARTMENT ²	INDICATION OF STATUS ³
Liébaut ^a	Doubs	
Pesson ^a	Loir-et-Cher ^b	Judge at Vendôme
Montané	Haute-Garonne ^b	Justice of the peace at Toulouse
Desfougères ^a	Indre ^b	
Des Madeleines	Orne ^b	
Grandsire ^a	Oise ^b	
Foucault	Allier ^b	Farmer, employee at a stud farm, legislator's clerk ^c
SUBSTITUTES		
Champertois ^a	Paris	
Rousillon	Paris	Surgeon, member of the jury of the tribunal of August 17 ^c
Tartanac	Gers	Member of the legislative assembly, judge at Valence

Although only five judges were to be named, Des Madeleines, Grandsire and Foucault had received the same number of votes for fifth place and were all classified together until the eldest could be determined--a bit of chronology that became unnecessary as the many refusals left room on the bench for all who would accept. Out of the list of judges and substitutes five finally accepted office,⁴ although it seems probable that only four actually attended the sessions,⁵ and only two appeared to take the

¹ a marks those who refused to serve.

² b marks information concerning departments secured from P. Joanne, Dictionnaire géographique et administratif de la France (7 vols.; Paris, 1905) when the list referred to the town or district of residence.

³ c marks information from G. Lenôtre, The Tribunal of the Terror, trans. Frederic Lees (Philadelphia, 1909), pp. 13-14. d refers to Dr. Robinet, A. Rouert, and J. Le Chaplain, Dictionnaire historique et biographique de la révolution et de l'Empire (Paris, n.d.), II, 773.

⁴ A. Tuetey, Répertoire général des sources manuscrites de l'histoire de Paris pendant la Révolution française, Vol. VIII (Paris, 1908), Nos. 1538, 1551, 1563, 1600; Lenôtre, p. 14. For refusals to serve see Tuetey, Vol. VIII, Nos. 1543, 1544, 1550, 1571, 1577.

⁵ The writer has seen no documents of the tribunal signed by Tartanac.

oath of office on the day it was first administered.¹

Not only was the bench short of judges, but the judges were equally short of legal experience. Montané, who became president by virtue of age, had been a justice of the peace, an office created during the reforms of the criminal courts² and possessing little judicial importance; Tartanac, a judge, seemingly did not come to Paris to take his place on the bench; Rousillon had been a juror on the special tribunal of August 17; and Des Madeleines and Foucault, as far as can be determined, had no legal experience even of the most indirect nature. It is only fair to say that from the standpoint of legal experience, this first bench of judges was by far the worst chosen by the Convention during the existence of the tribunal.

Nor can the selection be explained on political grounds. None of the judges who served seemingly had pronounced affiliations with either the Girondins or the Montagnards. On the basis of scant evidence it would appear that the judges were evenly divided. It is known that Des Madeleines was a brother of the deputy to the Convention, Dufriche de Valazé,³ a strong opponent of the Mountain and a protester against the events of May 31-June 2, 1793,⁴ by which leading Girondins were ousted, and that presumably he shared his brother's political views. There is also ground for presuming that Montané was opposed to the Mountain because of his attempt to alter the indictment of Charlotte Corday in such a manner that she would not be convicted as a counter-revolutionary, a kindness which resulted in Montané's arrest.⁵ Inasmuch as Foucault was re-elected a judge of the tribunal on September 26, 1793, long after the Girondin influence had been broken in the Convention, it can be assumed that his

¹See Foucault and Rousillon; Tuetey, Vol. VIII, No. 1585.

²E. Seligman, La justice en France pendant la Révolution (2 vols.; Paris, 1913), I, 302.

³Lenôtre, p. 13.

⁴Robinet, Robert and Le Chaplain, I, 687.

⁵Tuetey, Vol. VIII, No. 1663; E. Campardon, Histoire du tribunal révolutionnaire de Paris (2 vols.; Paris, 1862), I, 92.

opinions were satisfactory to the Mountain.¹ Although Rousillon does not appear on any subsequent courts it may be assumed from the attitudes toward the future activities of the tribunal expressed in his letter of acceptance that he was sympathetic with the purposes of the Mountain.² A sound conclusion would be that at first the bench of the tribunal represented no pronounced political preference for either the Mountain or the Girondins, and that the political complexion of the judges of the tribunal did not become completely favorable to the Mountain until after the overthrow of the Gironde on June 2, 1793.

For the performance of their duties the judges were to receive the same salary as that paid to the judges of the criminal court of the department of Paris. This was based upon four thousand livres a year, but in the criminal court only two-thirds was received as a salary, with the remaining third going into a fund from which payments were made to the judges in proportion to their services.³ The complexity of this system of pay and the higher status of judges of the tribunal were recognized on July 24 by a decree of the Convention fixing the salary of judges at eighteen livres a day.⁴ The accumulated sum was to be paid monthly from the national treasury on an order by the presiding judge approved by the minister of justice.⁵

The jurors selected to serve at the first sessions of the tribunal represent an equally important subject for analysis. The list approved on March 13 included the following:⁶

¹A.P., LXXV, 177-78.

²Letter quoted in Lenôtre, p. 14.

³Seligman, I, 307.

⁴Gazette nationale ou Le Moniteur Universelle (hereafter cited as Moniteur), July 25, 1793, p. 883; W 508.

⁵Journal des débats et des décrets (hereafter cited as J.D.D.) (session of May 7, 1793), No. 232, pp. 101-2; W 508.

⁶This list is from A.P., LX, 177, plus additional information as indicated.

NAME ¹	DEPARTMENT ²	INDICATION OF STATUS ³
Dumont	Somme	
Brisson ^a	Oise ^b	Mayor of Beauvais
Coppin	Seine-et-Oise ^b	
Lagrange ^a	Seine-et-Oise ^b	Commandant of the national guard at Saint-Cloud
Langlier ^a	Oise ^b	Former member of the Constituent Assembly
Cabanis	Corrèze	Doctor; friend of Helvétius, Diderot, and d'Alembert
Jourdeuil	Paris (section Marseille)	Police administrator
Fallot	Seine-et-Oise ^b	Former officer of justice in the commune of Saint-Cloud
Poulain ^a	Eure-et-Loire ^b	Judge at Chartres
Gannet	Paris	Elector
Laroche ^a	Seine ^b	Mayor of Auteuil
Fournier ^a	Paris	
	SUBSTITUTES	
Fréteau ^a		Former member of Constituent Assembly
Hattinguais	Seine-et-Marne ^b	National representative at Meaux ^c
Leroy	Seine-et-Marne ^b	Former marquis ^d
Maignon ^a		Member of a committee of surveillance
Gaudin ^a		Lawyer
Brochet	Paris (section Marseille)	Former guard at a tribunal ^c
Chancere ^a	Eure-et-Loire ^b	
Duplain ^a	Paris (section Marseille)	

¹a denotes that the nominee refused to take office. Letters of acceptance appear in the same order as the names in Tuetey, Vol. VIII, Nos. 1559, 1540, 1537, 1566, 1536, 1541, 1530, 1554, 1539.

²b indicates that where the list gives the commune or district of residence the name of the department was determined by the use of Joanne.

³c signifies information found in Robinet, Robert and Le Chaplain under the person's name. d denotes information from Lenôtre, p. 14.

NAME	DEPARTMENT SUBSTITUTES	INDICATION OF STATUS
Saintex ^a	_____	Doctor
Chrétien	_____	Café-keeper ^d
Chanteloups ^a	_____	_____
Grandmaison ^a	_____	_____

The ten jurors who responded to the summons were not open to the same criticism directed at the judges. The entire emphasis in the establishment of the jury system had been for a jury of honest and pure-hearted men with that intuition for discovering innocence and that courage to declare a verdict without favoritism that the unspoiled were supposed to have. The establishment of the jury system in France had been accompanied by the idea that the law could be so simplified that the upright, honest and enlightened citizen would have no difficulty with legal subtleties and could depend upon his civic virtues as a true guide to correct decisions. It is difficult to know if the accepting group of jurors fitted this conception, but there seems no reason to doubt that it did. The peculiarity of the jurors which most strikingly differentiated them from a cross section of the public of similar size was an obvious weighting in the direction of unimportant judicial experience, while socially and economically they were drawn largely from the upper middle class.

The only way in which the political feelings of this particular group can be approximated is by an examination of their personal reactions to the work of the tribunal as evidenced in resignations or failure to seek reappointment. On July 31, 1793, the clerk of the tribunal in a report to Gohier, the Minister of Justice, gave a list of all the jurors actively engaged in their duties.¹ Since this was two months after the overthrow of the Girondins and since a new jury had gone into service on July 1 the presumption would be that those remaining were probably friendly, or at least not antagonistic to the Mountain. Of the original ten jurors only two had left the tribunal by this time. Cabanis resigned on April 23 after several weeks of ill health;²

¹A.P., LXX, 86-87.

²Tuetey, Vol. VIII, Nos. 1589, 1593, 1604.

while Hattinguais on July 30 requested Gohier to permit him to return to his previous work at Meaux.¹ Not only had the remaining jurors continued their services but they had been joined by three others of the list of March 13 who had not at first appeared for duty: Duplain, Saintex, and Gaudin.² From the available evidence it must be concluded that the original jurors even more than the original judges were sympathetic with the Mountain.

In the law of March 11, 1793, there had been no provision for paying the jurors for their services, but on April 3, three days before the beginning of the first trial, the Convention voted to give the jury the same pay that had been stipulated for the judges.³ Then on July 2, in a report from the Committees on Legislation and Finance, the Convention, in view of the expenses of the jurors in maintaining themselves in Paris for presumably short periods in office, voted to increase this pay to eighteen livres a day.⁴ This remuneration undoubtedly made service on the tribunal attractive to some of the jurors, who despite the law demanding a renewal of the jury each month gave evidence of a lengthy attachment to their posts.⁵

Undoubtedly the most important appointment to the tribunal, though it could not have been foreseen at the time, was that of Fouquier-Tinville to the office of public prosecutor. In the election of March 13⁶ this office had gone to Faure, but his refusal to serve had left the way open for Fouquier-Tinville, the first man on the list of three deputy public prosecutors. Quite by chance the tribunal secured an almost perfect servant for the task before it. The quality about Fouquier-Tinville which made him so valuable in the circumstances was that he combined a slow burning fanaticism with the temperament and habits of a bureaucrat. His life had been something of a failure before his appointment to the tribunal and there was undoubtedly an accretion of bitterness in his personality that made his new work attrac-

¹Ibid., No. 1668.

²A.P., LXX, 86-87.

³Ibid., LXI, 126.

⁴Ibid., LXVIII, 93.

⁵Chrétien, Leroy, Gannev, Jourdeuil, and Brochet were all reelected in the reorganization and expansion of September 26, 1793. See ibid., LXXV, 178.

⁶Ibid., LX, 177.

tive. In addition he was energetic, a good organizer, and quite willing to follow orders from superiors, or if there were no orders, to adapt himself as well as possible to the spirit of the times. It seems altogether likely that Fouquier-Tinville succeeded in conceiving of his work as merely the machine-like translation of impulses from above and without into definite and enforceable legal judgments. If there were any questions of ethics or morality, they belonged not to him but to those whom he served in the capacity of a compliant public servant.¹

Fouquier-Tinville had been associated with the extraordinary tribunal created on August 17, 1792, in the capacity of director of the grand jury (jury d'accusation).² Since it seems likely that he received this place through the intercession of Camille Desmoulins,³ whom Fouquier addressed as a kinsman, it is certain that Fouquier at this time represented an advanced revolutionary position. He was a member of the Jacobin Club in Paris⁴ and upon the collapse of the tribunal of August 17 found no difficulty in securing a place as deputy public prosecutor on the criminal court of the department of Paris. It was from this position that he cautiously wrote on March 29, 1793, his acceptance of an appointment on the new extraordinary tribunal,⁵ an institution which he obviously thought would repeat the pattern of the disappointing one of August 17. In the matter of political outlook Fouquier-Tinville was probably in closer sympathy with the left of the Convention than any of the judges or jurors. The Jacobin influence, if it could dominate the Convention, could depend upon a friend to see that its theories of revolutionary law were applied in the tribunal.

¹There are several biographies of Fouquier-Tinville. See especially: Domenget, Fouquier-Tinville et le tribunal révolutionnaire (Paris, 1878); G. Lecocq, Notes et documents sur Fouquier-Tinville (Paris, 1885); and J. T. de Castelneau, Fouquier-Tinville, le pourvoyeur de l'échafaud (Paris, 1937). Also see a mémoire prepared by Fouquier-Tinville and given in Buchez et Roux, Histoire parlementaire de la Révolution française (40 vols.; Paris, 1834-1838), XXXIV, 233-60.

²Campardon, I, 13.

³Fouquier-Tinville to Desmoulins, August 20, 1792, quoted in Lenôtre, p. 33.

⁴Campardon, I, 12.

⁵Tuetey, Vol. VIII, No. 1581.

The two deputy public prosecutors selected to assist Fouquier-Tinville in his work were a former monk named Donzé-Verteuil and an ardent Robespierrist named Lescot-Fleuriot.¹ Nothing is known of the political affiliations of the first, but Lescot-Fleuriot was in the confidence of Robespierre and left the tribunal only for a political career as mayor of Paris. He participated on Robespierre's side in the events of 9 Thermidor and was executed along with him on the following day. The Mountain, then, controlled two and possibly three of the offices associated with the prosecution of the cases before the tribunal.

These three offices were the strategic center of the tribunal. Fouquier-Tinville, or his deputies, were in command of all cases from the preliminary hearing through the pronouncement of the judgment. In addition to the duties of the prosecutor in the trial itself, an enormous burden of work fell upon this office in collecting, copying, and filing many documents essential to the trials and in notifying outside authorities of the receipt of documents and the disposition of the cases.² The public prosecutor in keeping with French practice was also treated as the official head of the tribunal by the Convention and its committees--a recognition which involved considerable work in the making of reports, reception of decrees and orders, and the maintenance, in this office, of the records of the cases.

The compensation for this work, according to the act establishing the tribunal, was to be the same as that paid to the equivalent officers of the criminal court of the department of Paris,³ but on July 24 the Convention ruled that the salary of the public prosecutor should be the same as that paid the president of the tribunal⁴--obviously an increase but of mysterious proportions.

Since the work of the tribunal involved an unusually

¹A.P., LX, 177; Campardon, I, 14-15.

²*Infra*, pp.121-22. See the section on the work of the accuser's office and the records office of the tribunal.

³No law has been found establishing the pay for these offices in the criminal tribunal.

⁴J.D.D., July 24, 1793, No. 310, p. 308.

heavy documentary burden, the public prosecutor was the head of a staff of clerks and copyists. This department of the tribunal was divided into two offices. That known as the greffe and constituting the official depository for the legal records of the tribunal was under an officer known as the greffier (clerk of the court). The other office, or the parquet, was directly under the public prosecutor and was concerned primarily with the reception, copying, and filing of the documents submitted with the defendant or growing out of the preliminary hearings--the problem of preparing the evidence for the trial rather than that of preserving the evidence for posterity. In addition to this need of a clerical nature, there existed the necessity for bailiffs (huissiers) who could be used for the execution of warrants, the summoning of witnesses, the preparation of legal inventories, and the execution of the tribunal's needs in the matter of responsible messengers. As office boys the tribunal was assigned garçons de bureau and for the superintendence of the buildings an allowance was made for a concierge.

The first chosen of these additional officers was the greffier, Fabricius, a friend of Danton's,¹ and a resident of Paris, but at the time, the national commissaire at Lille.² The original act had made no provisions for assistants in his office and that of the prosecutor, but on April 28, 1793, the president of the tribunal requested that the Convention authorize the employment of secretaries by the prosecutor and that an increase be made in the staff of the tribunal, the work of which was "très fatigant."³ The Convention, following the recommendation of its committee on legislation, generously responded on May 7 by giving the prosecutor two secretaries and a sum of three thousand six hundred livres for their compensation, and in addition an office boy at nine hundred livres per year. The office of the greffier

¹Lenôtre, p. 15.

²Tuetey, Vol. VIII, Nos. 1582, 1585. Fabricius was an assumed name. The original name had been Paris, but the change to Fabricius was made on February 6, 1793, at the insistence of the general council of the commune of Paris, which refused to issue him a passport under his original name. The objection was that this had been the name of the assassin of the deputy Le Pelletier. See ibid., Vol. VIII, No. 1295.

³A.P., LXIII, 496.

was granted three assistant clerks at a salary of three thousand livres each, and three copying clerks at a salary of fifteen hundred livres each. It was further provided that these salaries should be calculated as beginning on April 10.¹

At the same time two additional bailiffs (huissiers) were added to the four that had already been elected by the judges and their compensation set at twelve hundred livres a year, while fifteen hundred livres was granted for a concierge to be appointed by the tribunal.² The tribunal also appointed one doctor and two surgeons to serve it in the treatment of sick persons and the examination of women who claimed pregnancy as grounds for a stay of execution of judgment.³ An additional doctor came to Fouquier-Tinville with a letter of recommendation, from Robespierre, who suggested his employment by the tribunal.⁴ By the middle of May the staff of the tribunal consisted of approximately forty persons, and since the calculation was based on the attendance of only four judges and ten jurors, the administrative and clerical staff included about twenty-five individuals.

In May, June, and August the Convention made some changes in the personnel of the tribunal. On May 30, in an effort to increase the number of judges to five the Convention named one new judge and four substitutes.⁵ Three out of the five had had previous experience as judges and a fourth had been a legal officer. Only one of the five, Ardouin, accepted, however, and since Des Madeleines withdrew at the time the new judge was added, the tribunal was not at all strengthened in numbers and not appreciably strengthened in ability.

An attempt to fulfill the intention of the Convention and supply the tribunal with a jury drawn from all the departments of France was made on June 8, 1793, when the result of the Convention's vote was made known by the following list:⁶

¹J.D.D., No. 232, p. 100. ²Ibid.

³Tuetey, Vol. VIII, No. 1585.

⁴May 10, 1793, W 502. ⁵A.P., LXV, 610.

⁶The list is from A.P., LXVI, 171, with additional information as indicated by symbols.

NAME ¹	RESIDENCE ²	INDICATION OF STATUS
Brichet ^a	Sarthe	Justice of the peace
Lacrampe ^a	Haut-Pyrénées	Administrator of the department
D'Herbes-St-Pons	Basses-Alpes	Notary
Tramont ^a	Corrèze	Municipal officer
Fualdès ^c	Aveyron	Administrator of the department
Scion	Eure-et-Loire	Administrator of the department
Couturier	Isère	Public prosecutor
Lagorosse ^c	Charente-Inférieure	District attorney
Pages	Lozère	District attorney
Le Groiverend ^a	Ille-et-Vilaine	Attorney for a commune
Lapeyre ^a	Gironde	Surgeon; member of a popular commission of a department
Mayenne-et-Loire ^b		
SUBSTITUTES		
Blanc ^a	Ain	Judge in district tribunal
Nouvot ^a	Haute-Saône	Judge in district tribunal
Thoumin	Mayenne	District attorney
Guillier	Nièvre	Vice president of directory of the department

These new appointments reveal several interesting circumstances. There is an obvious increase in the proportion of acceptances and on the basis of occupation some improvement in the quality of the men selected, with a greater tendency to emphasize either legal or administrative experience. The most striking and significant feature of the new jury, however, is the fact that refusals of service and resignations from service when considered geographically show a marked concentration in the west of France. For instance, six jurors were to have been elected from the block

¹a indicates that the nominee refused to take office. See in order Tuetey, Vol. VIII, Nos. 1631, 1627, 1634, 1630, 1628. Acceptances may be found ibid., Nos. 1626, 1650, 1659, 1648, 1625, 1645, 1652, 1636, 1633, 1632. c indicates subsequent resignations from the tribunal, ibid., Nos. 1702, 1698, 1648, 1691.

²b refers to a department which was drawn by lot to supply a juror but made no nomination.

of departments beginning with the Gironde and running north to Ille-et-Vilaine. This was the region in which Girondin strength and opposition to the political views of the Mountain were centered; this, according to Greer,¹ was the area which later became the great center of local executions for counter-revolutionary activity. One department of this area, that of Mayenne-et-Loire, did not put up a candidate; in two departments, the Gironde and the Ille-et-Vilaine, the candidates refused to serve; while candidates from two others, the Sarthe and the Charente-Inférieure, accepted at first but later resigned. Only one department in this region, Mayenne, sent a juror who was seemingly content with his work. In the March debates in the Convention it was obvious that the tribunal was most ardently desired by the Mountain, though not strenuously opposed by the Girondins; by the acceptances and rejections of the jury list of June 8 it is apparent that France recognized by that time that the tribunal had become an institution of the Mountain and a potential threat to the Girondins, who were now completely routed from the Convention and on the defensive in the country. This opinion is marked clearly in the letter of refusal sent by Lapeyre, of the Gironde, when he declared that the tribunal had fallen under the murderous influence of a criminal faction.² So far the refusal of those out of sympathy with the tribunal to accept office had strengthened the Jacobin predominance in its membership, but with the opening of the second phase of the tribunal's history a more deliberate policy of selection was to reduce any possibility of "counter-revolutionaries" amongst the judges or the jurors.

One more step remained, however, before the thoroughgoing reorganization of September 26, 1793. On July 30, the Convention, alarmed by the murder of Marat and the slowness of the tribunal,³ decided on the recommendation of the Committee of Public Safety to divide the tribunal into sections.⁴ On the following day this

¹Donald Greer, The Incidence of the Terror during the French Revolution: a Statistical Study ("Harvard Historical Monographs"; Cambridge, 1935), map entitled "The incidence of executions," p. [v].

²Tuetey, Vol. VIII, No. 1634.

³Campardon, I, 89-90.

⁴J.D.D., July 30, 1793, No. 316, p. 392.

legislation was made permissive rather than mandatory and the tribunal was given additional personnel in anticipation of this doubled action.¹ Since the number of judges in service was increased to ten the Convention was confronted with the problem of finding seven new ones, for only Foucault, Rousillon and Ardouin were actually in service. On August 3 the following list was approved:²

NAME ³	RESIDENCE	INDICATION OF STATUS
Dobsen	Paris	National commissioner to tribunal of Paris, sixth arrondissement
Coffinhal	Paris	National commissioner to tribunal of Paris, second arrondissement
Gribauvaulx	Paris	Secretary to Fouquier-Tinville
Petit Dauterive	Paris	Judge of tribunal of Paris, fifth arrondissement
Deliège	Marne	President of the district tribunal of St. Menehould
Lubin ^a	Paris	Judge of the tribunal of the first arrondissement
Scellier	Paris	Director of the grand jury, tribunal of the second arrondissement
SUBSTITUTES		
Lullier ^a (Liendon)	Paris	Director of the grand jury, tribunal of the second arrondissement
Hermann	Pas-de-Calais	President of the tribunal of the department
Brigot ^a	Marne	National commissioner at Reims

The emphasis upon legal experience continues, but there is significance in the increasing reliance upon Paris as the supply center for personnel. The advantages were obvious; the person was well known, the correctness of his views could be easily certified, and he was quickly available. Another important de-

¹Ibid., No. 317, p. 403.

²The list is from A.P., LXX, 179-80, with additional information as indicated.

³a marks refusals; see Tuetey, Vol. VIII, Nos. 1683, 1685 (the name Lullier occurred by mistake; the correct person was Liendon), 1688; for acceptance, ibid., Nos. 1682, 1686, 1690.

velopment was the fact that three of the new judges, Dobsen, Coffinhal, and Scellier, were former members of the extraordinary tribunal of August 17, 1792, and as such had been colleagues of Fouquier-Tinville.¹ Now that Montané had been removed there could be no doubt that the judges represented a position in complete agreement with that of the Mountain. On August 28, Hermann, an intimate friend of Robespierre, became president of the tribunal. These facts tend to support the argument so frequently advanced that Jacobin control was both a result and a cause of the centralization of government in Paris.

There had been no changes in the functions of the various officials nor had the procedure of the tribunal been altered during its first five months. The changes in personnel had converted the original preponderance of Montagnard influence into complete domination. The only serious complaint that the Convention had against the tribunal was its slowness in operation--the highest number of death penalties in any one month had been the sixteen in July.² As a result of the Enragés' demonstrations in September, an effort was made to remedy this defect by the decree that the personnel of the tribunal should be approximately doubled and that it should sit in four sections. It should be noted, then, that the first attempt to secure the speed that the revolutionary pattern was demanding was of a conventional nature; modifications in the forms of procedure did not come until no other solution seemed possible.

The new lists for the reorganized tribunal had been compiled by the Committees of Public Safety and General Security³ and were in complete defiance of the procedure and requirements established in the original law for the selection of the jury. The residence of this power in the two committees was but the beginning of a wide influence that they exercised over the operations of the tribunal. It is also significant that this reorganization followed the popular demonstrations of early September through which Billaud-Varenne and Collot d'Herbois were added to

¹H. Wallon, Histoire du tribunal révolutionnaire de Paris (6 vols.; Paris, 1880-1882), I, appendix VI, 452-53.

²Liste des victimes du tribunal révolutionnaire à Paris (Paris, 1911), pp. 1-5. .

³Moniteur, September 30, 1793, pp. 1157-58.

the Committee of Public Safety, the revolutionary army was created, and the so-called law of forty sous was passed to stimulate the enthusiasm of hard pinched patriots. The division into four sections was authorized on September 5, and on September 26 the Convention approved the lists for nineteen judges, a public prosecutor and five assistants, and sixty jurors.¹ The judges were Hermann, Scellier, Dobsen, Coffinhal, Foucault, and Delière (all appearing on the list of judges given above) and the following:²

NAME ³	RESIDENCE ⁴	INDICATION OF STATUS ⁵
Dumas	Jura	Lawyer ^c
Brulé ^a	Paris	Judge of the tribunal of the fifth arrondissement
Bravetz	Haute-Alpes	Judge of the tribunal of the department
Subleyras	Gard	Clerk of a district tribunal
Lefetz ^a	Pas-de-Calais ^b	District administrator
Verteuil	_____	Assistant to Fouquier-Tinville
Lanne	Pas-de-Calais	Prosecutor of the district of Saint Pol
Ragmey	Jura ^b	Lawyer
Masson	_____	Assistant clerk of the Revolutionary Tribunal
Denizot	Paris	Judge of the tribunal of the fifth arrondissement
Parney	_____	Author
David	Nord ^b	Substitute deputy to National Convention; judge of district tribunal

¹J.D.D., September 26, 1793, No. 375, pp. 389-91; Moniteur, September 30, 1793, pp. 1157 gives the date as September 28, 1793.

²The list is from A.P., LXXV, 177-78, with additional information as indicated.

³a indicates persons who refused to serve. See Tuetey, Vol. VIII, Nos. 1738, 1722. There is no indication of whether or not Lanne and Parney accepted, but all the others were either on the bench or wrote letters of acceptance. See ibid., Nos. 1752, 1717, 1734, 1740, 1762, 1733, 1724, 1745, 1732, 1742, 1749.

⁴b indicates information concerning departments from Joanne when the list gave district or commune of residence.

⁵c indicates information from Campardon, I, 100-1.

NAME	RESIDENCE	INDICATION OF STATUS
Maire	Paris	Judge of tribunal of first arrondissement

More important than the new men, all of whom were from departments either north or south of Paris, was the fact that the tribunal was now keeping a rather large nucleus of old members and to a slight extent was rewarding members in minor offices with promotions. This policy of retention enabled the tribunal to sort its personnel and discard those who did not possess the required zeal and energy.

The new jury, now numbering sixty, had (in addition to Chrétien, Leroy, Thoumin, Gannet, Jourdeuil, and Brochet listed on previous juries above) the following composition:¹

NAME	RESIDENCE	INDICATION OF STATUS
Antonelle	Bouche du Rhône	Former deputy of the Legislative Assembly
Benoitray	Paris (Muséum)	
Servière	Paris	Shoe-maker
Fauvetty	Gard	Sent by primary assembly
Lumière	Paris (Muséum)	Member of revolutionary committee
Fauvel	Paris (Panthéon)	Man of independent means
Auvray	Paris (Mail)	Stage coach employee
Fainot	Paris	Elector
Gauthier	Eure-et-Loire	District administrator; carpenter
Renard	Paris (Poissonnière)	Member of commune
Renaudin	Paris (Gardes-Françaises)	Lute-maker
Meyère	Gard	Member of directory of the department
Châtelet	Paris (Piques)	Painter
Clémence		
Gérard	Paris	Artist
Fiévé	Paris (Muséum)	Member of revolutionary committee
Petit-Treissin	Paris (Marseille)	

¹The list is from the Moniteur, September 30, 1793, pp. 1157-58.

NAME	RESIDENCE	INDICATION OF STATUS
Trinchard	Paris (Muséum)	Carpenter
Topino-Lebrun	Paris (Muséum)	Painter
Pigiol	Paris	Member of committee of surveillance
Girard	Paris	Goldsmith
Sourberbiel	Paris	Surgeon
Presselin	Paris	Tailor
Deydier	Paris	Locksmith
Sambat		
Villate	Paris	
Klispis	Paris	Jeweler
Laport	Mayenne	District administrator
Garnier	Paris (Montagne)	
Martin	Paris	Surgeon
Guermier	Finistère	
Dufour	Paris	
Mercier	Paris	
Aubry	Paris	Tailor
Campagne	Paris	Goldsmith
Billon	Paris	Joiner
Gimond	Paris (Marches)	Tailor
Baron	Paris	Hatter
Prieur	Paris	Painter
Lohier	Paris (Théâtre-Français)	Spice merchant
Duplay	Paris	Joiner
Devèze	Paris (République)	Carpenter
Boissot	Paris	Elector
Maupin	Paris	Elector
Camus	Paris	
Algoïn	Hérault	
Picard	Paris (Tuilleries)	Former president of section
Nicolas	Paris	Printer
Dumon	Lot	Laborer
Besson	Haute-Marne	Sent by assembly
Gravier	Rhône	Vinegar merchant
Payan	Drôme	Employee of Committee of Public Safety

NAME	RESIDENCE	INDICATION OF STATUS
Gillibert	Haute-Garonne	Merchant
Begu	Nord	Doctor

The most obvious characteristic of these jurors was the identification which most of them had with Paris and the fact that so many of them were artisans and shop-keepers. There is some confirmation in these characteristics for the charge that, as time went on, the tribunal became more and more an instrument of Paris in its struggle against the provinces, and some support for the suspicion that the committees had made their selections from the lower middle class and the manual workers as an assurance that the tribunal would be energetic against the aristocrats. It is also of interest that Duplay, Deydier, Souberbiel, Renaudin, Châtelet, Girard, and Gravier were associated with Robespierre and, if Lenôtre is to be trusted as an authority, owed their appointment to his favoritism.¹ The same sort of influence is alleged to account for the presence of four of the five jurors who were from the section of the Muséum, the home of Lescot-Fleuriot.² There is also the presumption that while the two committees were considering their recommendations, Fouquier-Tinville and Lescot-Fleuriot had furnished them suggestions in which they had indicated their preference for the new jury.³ All in all, this jury represented a picked group in which apparently the main consideration was political loyalty to revolutionary principles and a capacity for quick and ruthless decision.

The office of the public prosecutor was increased at the same time by the creation of a staff of five assistants. Lescot-Fleuriot remained from the original staff; Gribauvaut, the former secretary of Fouquier-Tinville and for a short time a judge on the tribunal, returned as an assistant; and Royer, Naulin, and Liendon were added.⁴ It is to be presumed also that by this time

¹Lenôtre, p. 96. Lenôtre has been attracted by the sensational aspects of the Terror and his work achieves a vividness that is in large measure based upon error and distortion.

²Ibid.

³Buchez et Roux, XXXIV, 467. This is from the evidence given by Fabricius in the trial of Fouquier-Tinville.

⁴Moniteur, September 30, 1793, p. 1157.

the tribunal had accomplished the expansion that had been authorized by decrees of September 5 and 14 providing for an increase to the following limits; eight assistant clerks, eight copying clerks,¹ eight bailiffs, and six office boys.² The personnel of the tribunal now exceeded one hundred.

The reorganization of September, bringing the tribunal into its second phase, fixed the form of the tribunal until the law of 22 Prairial (June 10, 1794). Since the first trial of the tribunal early in April, 1793, there had been no changes in procedure nor had there been a creation of new offices or a change in functions of the old. The entire attempt of the Convention to form an instrument of revolutionary justice had been concentrated upon an elimination of the lukewarm from the offices of tribunal, and in an expansion of personnel. It was hoped that by multiplying the parts the tribunal would be able to care for the increasing numbers awaiting trial. The hope was extravagant from the beginning and became entirely illusory with the enactment of the Law of Suspects (September 17, 1793),³ which filled the prisons with persons who were detained merely because they fell into certain specified categories. Between September, 1793, and June, 1794, the customary procedure began to give way under the pressure of numbers, and with changes in procedure (which we will describe below)⁴ came changes in function.

The reorganization of June 10, introducing the third and most important phase of the tribunal's existence, made it necessary that the Convention again consider the question of personnel. The number of judges was reduced to sixteen and in addition to Dumas, Coffinhal, Scellier, Foucault, Verteuil, Bravetz, Parney, and Maire, who were reappointed and are given in the lists above, the following list was approved:⁵

¹J.D.D., September 5, 1793, No. 352, p. 65.

²Tuetey, Vol. VIII, No. 1707. Neither the Moniteur nor J.D.D. reports the decree of September 14.

³Moniteur, September 19, 1793, p. 1111.

⁴See infra, pp. 110-12.

⁵List is from the Moniteur, June 12, 1794, p. 1074, with additional information as indicated.

NAME	RESIDENCE ¹	INDICATION OF STATUS
Ragmey	Belgium (Liège)	
Barbier	Morbihan	
Garnier-Launay	Paris	
Paillet	Saône-et-Loire ^a	Professor of rhetoric at Châlons
Naulin		
Laporte	Indre-et-Loire ^a	Member of military commis- sion at Tours
Felix	Indre-et-Loire ^a	Member of military commis- sion at Tours
Lohier	Paris	Member of jury of the Revo- lutionary Tribunal

The list of jurors retained twenty-nine (Renaudin, Benoitray, Fauvetty, Lumière, Fainot, Gauthier, Meyère, Châtelet, Petit-Treissin, Trinchard, Topino-Lebrun, Pigiol, Girard, Presselin, Deydier, Vilatte, Leroy (Dix-Août), Laporte, Gannet, Brochet, Aubry, Gimont, Prieur, Duplay, Devèze, Boissot, Nicolas, Gravier, and Billon)² of those already on the jury, converted one judge, Subleyras, into a juror, and named the following twenty new men to bring the jury up to fifty:³

NAME	RESIDENCE ⁴	INDICATION OF STATUS
Laveyron	Seine ^a	Farmer
Fillon	Rhône ^a	Manufacturer
Potherel	Saône-et-Loire	
Musson	Rhône ^a	Shoemaker
Marhel		Artist
Laurent	Paris (Picques)	Member of revolutionary com- mittee
Moulin	Paris (République)	

¹a indicates information from Joanne concerning departments when district or commune of residence was given in the list.

²Leroy, Gannet and Brochet were members of the original jury of March 13, 1793.

³List from the Moniteur, June 12, 1794, p. 1074.

⁴a denotes information concerning departments from Joanne when commune or district of residence was given.

NAME	RESIDENCE	INDICATION OF STATUS
Villers	Paris	
Deprau	Paris	Artist
Emmery	Rhône-et-Loire	Hat merchant
Lafontaine	Paris (Muséum)	
Blachol	Pyrénées-Orientales	Paymaster in the army
Debeaux	Drôme ^a	Clerk of the district tribunal
Gouillur	Pas-de-Calais	District administrator
Dereys	Paris (Montagne)	
Duquenel	Morbihan ^a	Member of revolutionary committee
Hannoyer	Morbihan ^a	Member of revolutionary committee
Brutins	Paris (République)	
Pachet	Paris	
Nierquin	Vosges	Member of committee of surveillance

The judges and the jurors had been through another winnowing process and only those considered to be solide were retained. The final selection had been in the hands of the Committee of Public Safety, which no doubt acted upon information furnished by the tribunal itself as well as outside sources. The contention of Fouquier-Tinville, however, that Robespierre was responsible for the rejection of those who were not asked to continue their services cannot be substantiated.¹ It is also noteworthy that the new jury had four citizens from Lyon, where the counter-revolutionaries had now been overthrown, and that at least four more of the new members had belonged to revolutionary committees, whose principal task it was to suppress counter-revolutionary activities.

The effect of this law in addition to the gradual changes

¹Lenôtre (p. 170, n. 1) quotes a document in the hand of Fouquier-Tinville which lists the judges and jurors rejected by Robespierre. The document is open to serious question, however, since it was not drawn up until, significantly enough, 14 Thermidor (August 1, 1794). It is also rather singular that Lohier, to whom Robespierre is alleged to have objected as a juror, should have become a judge in that tribunal.

that had been appearing in the operations of the tribunal was to increase disproportionately the burdens of the prosecutor's office. No matter how brief the appearance of the accused in the actual trial, there was still a tendency for the amount of clerical work to increase with the increase in the number of defendants. The assistants to the prosecutor remained at five under the new law, but for several weeks Fouquier-Tinville had been requesting the Convention to authorize additional clerical help to care for the congestion of cases in the prosecutor's office. As early as March 6, 1794, Fouquier-Tinville had demanded of the Committee of Public Safety an increase in salary for one of his assistants and the acquisition for him of two helpers,¹ and on April 16 he requested a salary increase for several of his staff.² On May 3, the Convention was solicited to add four clerks to the office of the prosecutor, two to the office of the greffier, and two bailiffs to the tribunal.³ In the preceding December the Convention had authorized Fouquier to add two employees to his office and to expend ten thousand four hundred livres a month in salaries.⁴ In his letter of May 3 it was admitted by Fouquier that he had added two employees with the assent of the Committee of Public Safety, and on May 5, the tribunal proceeded to the appointment of two bailiffs (huissiers).⁵ The payroll of the office of the prosecutor, attested by Fouquier, reveals that during Floréal (May-June, 1794) one assistant clerk, two copying clerks, and an office boy had been added to the staff, and that during Messidor (June-July, 1794) an additional assistant was added.⁶ While it is not certain, it seems entirely probable that during its period of greatest activity the office of the prosecutor employed twenty persons and that of the greffier eighteen, while ten bailiffs attended the tribunal.

The effects of the law of 22 Prairial, year II (June 10, 1794) were immediately felt. During the first ten days of June the daily average of convictions had been seventeen; during the

¹Fouquier-Tinville to the Committee of Public Safety, March 6, 1794, quoted in Lenôtre, p. 145, n. 1.

²Ibid., p. 145, n. 2.

³Ibid., p. 147, n. 1.

⁴W 509.

⁵W 502.

⁶W 175.

remainder of June this average jumped to twenty-seven and during July to thirty.¹ At this point the tribunal reached its full stature as the censor and avenger of the revolution, but the moot question as to whether the energy of this mechanism was loosed primarily for the political, or for the social and economic revolution will have to await for discussion until a later chapter.

The tribunal survived in the full strength of its activity for only fifty days. On 12 Thermidor, year II (July 30, 1794), three days after the fall of Robespierre, the last large "batch" of convicted persons was executed. Eleven days later the tribunal underwent a complete reorganization. On August 10--the beginning of the fourth phase of the tribunal's history--the Convention upon the recommendation of the Committees of Public Safety and General Security approved the following list of judges:²

NAME	RESIDENCE ³	INDICATION OF STATUS ⁴
Bravet	Haute-Alpes	Judge of revolutionary tribunal
Deliège	_____	President of the tribunal of Montagne-sur-Aisne and former judge of the Revolutionary Tribunal
Leriget	Charente-Inférieure	_____
Rudler	Basses-Alpes ^a	Judge at Colmar
Abrial	Haute-Loire ^a	Judge at Puy
Bido	Cher ^a	President of the tribunal of the district Sancoins
Denisot	Paris	Former judge of the Revolutionary Tribunal
Dejoux	Cantal ^a	_____
Dumoulin	Nord ^a	President of district of Douai
Forestier	Yonne	Justice of the peace
Godinet	Haute-Marne	Director of the department

¹Liste des victimes , pp. 63-70, 70-131.

²Moniteur, August 14, 1794, pp. 1337-38, with additional information as indicated.

³a denotes information concerning departments found in Joanne, when name of district or commune was given.

⁴b denotes information from Robinet, Robert, and Le Chaplain, II, 740.

NAME	RESIDENCE	INDICATION OF STATUS
Gau	Pas-de-Calais ^a	National commissioner at a district tribunal
Gourmeaux	Ardennes	Former judge
Hardoin	_____	Former judge of revolutionary tribunal
Joly	Haute-Saône	Procureur général-syndic
Lafond	Creuse ^a	Judge of the tribunal of the district of La Souterraine
Lavallée	Doubs ^a	Municipal officer
Laplante	Doubs ^a	President of district tribunal
Maire	Paris	Judge of Revolutionary Tribunal
Meyère	Gard	Former juror of the Revolutionary Tribunal
Perrin	Bouches-du-Rhône ^a	Judge of district tribunal
Poulnot	Haute-Saône	Substitute judge of district tribunal
Savary	Marne-et-Loire	President of tribunal at Cholet ^o

The appointment as judges of such a large number indicated the intention of the Convention to maintain the tribunal in sections and the belief that cases would continue to be numerous. The judges themselves came with about the same legal experience that had characterized the bench of September 26 and June 10, but there was now a decided disposition to draw them from outside of Paris, especially from the east and south. This anxiety to restore the balance among the departments serves as another bit of evidence for the contention that the opponents of the Jacobins were motivated largely by the fear of centralization of power in Paris. Five judges who had formerly served the tribunal were reappointed--two of them had even been on the bench of 22 Prairial--and Meyère, a juror of September 26, 1793, was recalled to judgeship. The tribunal in reverting to the procedure that had accompanied its first few months of experience also returned to the temper that had characterized its first magistrates.

The jury evidenced the same trends, and it was obvious from the list recommended by the committees that the center of gravity was shifting from Paris and that the men selected were

coming from a higher economic classification than those who preceded them. The jurors were the following:¹

NAME	RESIDENCE ²	INDICATION OF STATUS
Paquin	_____	Former clerk of the Committee of General Security
Nadeau	Charente-Inférieure	Clerk of the district
Dery	Loiret ^a	_____
Cherel	_____	_____
Beaufils jeune	Nièvre	Former administrator of Nièvre
Saulnier	Paris (Bondy)	_____
Dumas	Paris (Bondy)	Engineer
Métivié	Paris	Judge of tribunal of the fifth arrondissement
Royalle	Paris (Arsenal)	_____
Bonnetier	Paris	_____
Delrautteau	Paris	_____
Legras	Paris	_____
Redon	Vaucluse	_____
Labroux	Paris	_____
J.J.Poux	Aveyron	_____
Dordelu	Meuse	Pharmacist
Sambat	_____	Juror of the Revolutionary Tribunal (jury of September 26, 1793)
Les Bazeilles	Marne ^a	Mayor
Mattey	_____	_____
Saturnin-Rivoire	_____	_____
Aubert	Var	Administrator of the department
Cateux	Oise	_____
Dutil	Paris (Temple)	Member of revolutionary committee
Magendy	Paris (Fontaine de Grenelle)	_____
Prat fils	Ardèche	Farmer

¹List from Moniteur, August 14, 1794, p. 1338.

²_a denotes information concerning departments found in Joanne where commune or district of residence was given in the list.

NAME	RESIDENCE	INDICATION OF STATUS
Nantil	Meurthe-et-Moselle ^a	
Capella		Justice of the peace
Belhoste	Seine-Inférieure	Administrator of department
Raimbaut	Côte-d'Or	Administrator of department
Boule	Corrèze	Inn-keeper
Lecour	Manche	Clerk of the administrator of the district
Reynes	Tarn	
Paillet	Saône-et-Loire	Judge of Revolutionary Tribunal (bench of June 10, 1794)
Maupin	Seine-et-Oise ^a	Architect
Duval	Paris (Fontaine de Grenelle)	Wig-maker
Domer		Cabinet-maker
Petit-Triessin	Paris (Marseille)	
Topino-Lebrun		Painter, juror of the Revolutionary Tribunal
Jolly	Meuse ^a	
Guillon	Loire-et-Cher ^a	Municipal officer
Pérès		Farmer
Devère	Paris	Member of the general council of Paris
Salmon	Nord ^a	Physician
Lamothe	Basses-Pyrénées	
Vaillant aîné	Côte-d'Or	Archivist
Rouseel aîné		Clerk for the conservation of the property of the former civil list
Aizelin	Côte-d'Or ^a	District clerk
Lebreton	Paris	Tailor
Bazaine		Clerk at the bureau of the commission of finances
Quichaud-Lion	Charente	Administrator of the department
Forceville	Paris (Invalides)	Army officer
Ramboure père	Doubs ^a	District administrator
Libre (formerly Leroy)	Paris (Invalides)	Army officer
Dubuisson	Haute-Saône ^a	District judge
Tourette	Charente	Administrator of department
Delapierre	Seine-et-Oise ^a	

NAME	RESIDENCE	INDICATION OF STATUS
Presselin	_____	Juror of Revolutionary Tribunal (jury of September 26, 1793)
Bouret	Paris	Clock-maker
Duplais	Charente-Inférieure	Justice of the peace

The office of the public prosecutor received the most thoroughgoing reform. LeBlois, the public prosecutor of the criminal tribunal of the department of the Deux-Sevres, replaced Fourquier, who was now under arrest,¹ and the five assistants, all new, were Bordet (Moselle), Couturier (Isère), a member of the jury of June 8, which had been elected from the departments drawn by lot, Granger (Nord), Petit (Paris), and Semblauzel (Lot-et-Garonne). The clerks and office assistants were for the most part unchanged,² but Fabricius, the friend of Danton, who, on Danton's fall had been replaced by Lecrivain, was now restored to his old office of chief greffier of the tribunal.

The tribunal was rapidly running down. The overthrow of Robespierre had introduced into the Convention the spirit of uncertainty, and the tautness that had been characteristic of men and opinions was dissipated. The last revision of the tribunal on 8 Nivôse, year III (December 28, 1794) and the approval of the new lists five days later were scarcely more than formalities. The new judges were:³

NAME	RESIDENCE ⁴	INDICATION OF STATUS
Mouricault (President)	Paris	National commissioner for the tribunal of III arrondissement
Liger (Vice-pres.)	Loiret	President of the criminal tribunal of the department
Prévôt (Vice-pres.)	Puy-de-Dôme ^a	President of the criminal tribunal of the department

¹By decree of the Convention, July 31, 1794, Moniteur August 2, 1794, p. 1290.

²W 91-1. As late as 1 Vendemaire, year III (September 22, 1794) nine of the old employees of the parquet were retained.

³List from Moniteur, January 5, 1795, p. 438.

⁴_a denotes departments found in Joanne when district or commune of residence was given.

NAME	RESIDENCE	INDICATION OF STATUS
Mazerat	Aisne ^a	Ex-commissioner of the national district tribunal of Nontron
Godeau	Indre	National agent
B. Daubagne	Paris	Former judge of the district of Noyon
Favard	Puy-de-Dôme ^a	National commissioner of the district tribunal
Godard	Seine-et-Marne	Administrator of the department
Devillas	Cantal ^a	President of the district tribunal
Gaillard-Lécarré	Aisne	President of the criminal tribunal of department
R. Graud	Haute-Alpes ^a (Briançon)	Former president of the criminal tribunal
Debregeas	Dordogne	Public prosecutor of the criminal tribunal

The new jurors for the same tribunal were as follows:¹

NAME	RESIDENCE ²	INDICATION OF STATUS
J.B. Bouygues	Lot	Former solicitor
Pers, le jeune	Pas-de-Calais ^a	Secretary of the district tribunal
Adam l'ainé	Haute-Savoie ^a	Ex-military judge
Ponterle-Escot	Dordogne ^a	Mayor of the commune
Hélouin	Calvados ^a	Physician, justice of the peace in the canton of Danvou
Dubus	Oise	Tailor
Husson	Meuse ^a	Cabinet-maker, judge of the district tribunal
Reichs, l'ainé	Basses-Alpes ^a	Member of the directory
Brunet	Paris	Official counsel for defense (legal)
Ouri	Manche ^a	Justice of the peace
Verdusan	Haute-Pyrénées ^a	Resident
Gabriel de Saint-Horrent	Creuse ^a	Judge of the district tribunal

¹List from Moniteur, January 5, 1795, p. 438.

²_a denotes departments found in Joanne when district or commune of residence was given in the list.

NAME	RESIDENCE	INDICATION OF STATUS
Laporte	Lozère ^b	Judge of the district tribunal
Vannier	_____	Chief of the directory of the district
Lerade	Cise ^a	Watch-maker
Tournier l'aîné	Cantal ^a	Ex-administrator of the district
Bressaud	Haute-Saône ^a	Living at Raze
Vignalet	Basses-Pyrénées	Ex-resident of the district tribunal
Rouit-Borel (Bruno)	Basses-Alpes ^a	Justice of the peace
Brillat	Ain ^a	Merchant and farmer
Payrat	Ardèche	Mayor of Vernoux
Cadet	Meuse ^a	Official counsel for defense
Perrault	Loire ^a	Notary
Rubat fils	Saône-et-Loire ^a	Member of district tribunal
Tallairat	Haute-Loire ^a	National agent of the commune
Richard	_____	President of the district council
Lapeyre	Vaucluse	Assistant to the department administrator
Felorme	Paris	Civil commissioner
Gueroult	Paris	Former professor of rhetoric
Lebrun	Seine ^a	Official counsel for the defense

For the first time no member of a former tribunal appeared either as a judge or a juror. Even the public prosecutor and his assistants were changed and the only person of any consequence retaining his former appointment was Fabricius. The tribunal was now drawing its personnel from widely separated departments and more and more those who served it were from the professional circles of the upper middle class. Only the necessity of exorcising the "evil" that it had once been and a sense of legal duty kept the tribunal in operation during the long trial of Fouquier-Tinville, upon whom the Thermidorians looked as a scapegoat to be offered up in expiation of the sin in which all had been implicated. The spirit of the tribunal had fled in August, 1794, when an attempt was made to restore its original slow and moderate procedure. When the tribunal was finally abolished by

the Convention (May 31, 1795) the decree meant no more than an official recognition that the tribunal had already become lifeless.

CHAPTER VI

PROCEDURE

Revolutionary justice as administered by the Paris Tribunal proceeded by two distinct steps. The first step--the arrest of the suspects, their examination, and their dispatch to Paris--has already been described. The second step was their actual appearance before the Revolutionary Tribunal. This part of the procedure and the several changes that it underwent during the history of the tribunal deserve a careful analysis. Such an analysis will indicate not only the function of the tribunal in the execution of revolutionary justice but also the degree to which the tribunal was but a reflection of the revolutionary pattern that was being elaborated in the country as a whole. It is also of interest to note that while the organization of the tribunal went through five chronological phases the procedure went through only three. With some qualifications the first phase of the procedure lasted from the beginning of the tribunal's operations to the law of 22 Prairial (June 10, 1794); the second phase from that law to the reorientation following the overthrow of Robespierre; and the third phase, very similar to the first in character, from that time until the abolition of the tribunal at the end of May, 1795.

In the spring of 1793, the Conciergerie was designated as a prison reserved for the use of the Revolutionary Tribunal. Those awaiting trial before the tribunal were ordinarily held there. The local authorities upon sending prisoners to the tribunal in Paris frequently designated the Conciergerie as the place to which the gendarmerie should deliver them. This prison, however, was not large enough to hold all those who were awaiting trial, and prisoners of the tribunal were frequently kept at the

Petit Force,¹ Luxembourg,² Bicêtre,³ Abbaye,⁴ Égalité,⁵ Carmes,⁶ St. Lazare,⁷ and Port Libre,⁸ as well as in the infirmary of the Conciergerie.⁹ As a rule the tribunal attempted to transfer these prisoners to the Conciergerie as space became available and as the time for their trials approached. In a number of cases, however, the office of the public prosecutor prepared dossiers for prisoners who were expected to arrive in Paris, but who through escape, death en route, or a release issued by the representatives of the people or the Committee of General Security, could not be found in the appropriate prison when the tribunal sent for them.¹⁰ The tribunal was also informed rather frequently that certain prisoners awaiting their trials had died in the prisons or in the infirmary of the Conciergerie.¹¹

The first appearance of the accused before the tribunal, until the changes introduced by the law of 22 Prairial, year II, was a preliminary examination known as the interrogatoire. At this time he may have been in a prison in Paris for as little as one day¹² or as long as eight months,¹³ but the chances were that the preliminary hearing would be held within the first month.

¹Archives National (hereafter cited as W), W 11, No. 505; W 27, No. 1620.

²W 17, No. 753 bis; W 23, No. 1231; W 30, No. 1771; W 58, No. 3496; W 71, No. 3915.

³W 17, No. 757.

⁴W 24, No. 1399; W 26, No. 1586; W 34, No. 2125.

⁵W 24, No. 1417; W 26, No. 1608; W 30, No. 1739; W 36, No. 2363; W 70, No. 3885.

⁶W 26, No. 1549; W 27, No. 1651.

⁷W 37, No. 2450. ⁸W 58, No. 3483.

⁹W 24, No. 1302; W 26, No. 1582; W 31, No. 1868; W 36, No. 2359; W 44, No. 2948; W 42, No. 2859.

¹⁰W 23, No. 1219; W 24, No. 1406; W 24, No. 1434; W 35, No. 2176; W 45, No. 3012.

¹¹W 23, No. 1279; W 16, No. 684; W 24, No. 1302; W 36, No. 2359; W 37, No. 2419; W 51, No. 3308 bis.

¹²W 16, No. 684, and W 36, No. 2342.

¹³W 24, No. 1417.

Seemingly, also, the chance of an early hearing was not greatly affected by whether the accused arrived in the prisons during 1793 or 1794. During both years a wide fluctuations continued in the length of time required to bring individual cases to this first step. One important possibility existed, however, that might eliminate this interrogatoire. The Committee of General Security in a number of cases ordered the release from prison of the suspect before he could be called by the tribunal.¹ This action of the committee should be considered in any appraisal of the proportion of convictions by the tribunal, since the effect was to remove from the jurisdiction of the tribunal those cases in which the evidence seemed insufficient. Thus the number of trials that resulted in conviction was proportionately larger than would have been the case had not the committee spared the tribunal by this winnowing process.

The preliminary hearing was conducted by one of the judges, the public prosecutor or one of his assistants, and the clerk of the tribunal or one of his assistants. The examination (interrogatoire) of the prisoners was short and was designed primarily to place on record the answers of the accused to three questions that required little discussion. The first question was designed to establish the identity of the accused, his place of birth, age, occupation, and residence; the second required that the accused affirm or deny the validity of the evidence that had been submitted by outside authorities in sending the defendant before the tribunal; and the third required the accused to state whether or not he had selected a counsel to represent him in the trial before the tribunal.² Frequently the record of this examination could be included in one page of an official form and it seems doubtful that many interrogatoires lasted over thirty minutes. If the defendant had not selected a counsel, the officers of the tribunal appointed one for him from the official defense counsels attached to the tribunal, and a notation of this fact was included

¹For example see W 8, No. 379; W 12, No. 563; W 27, No. 1623; W 27, No. 1623 bis; W 30, No. 1759; W 45, No. 2967 bis; W 46, No. 3097; W 50, No. 3291.

²Interrogatoire of Boissonnat, June 26, 1793, W 6, No. 244; of Adam, February 13, 1794, W 19, No. 1201; of the widow Delaigle, April 30, 1794, W 32, No. 1918; and of Pichery, August 3, 1794, W 51, No. 3308 bis.

in the record. Following the questioning the accused was returned to prison to await the pleasure of the tribunal.

There was a chance, however, that the case might never reach the trial stage, for the Committee of General Security had and frequently exercised the power to release prisoners not only before but subsequent to the preliminary examination. These orders of mis en liberté by the committee were issued with some frequency during the entire history of the tribunal, but leniency increased following the events of 9 Thermidor.¹

Following the preliminary hearing the accused was permitted to consult with his counsel concerning the defense that would be offered at the trial, while the public prosecutor proceeded to draw the document of formal charges known as the acte d'accusation. The charges set forth in the acte were general in character but were based upon the documentary evidence sent in by the arresting authorities and local agents and the responses made by the accused at his preliminary hearing. It is evident that considerable care was exercised in the preparation of the formal charges--with some exceptions that will be spoken of later--and that the acte constituted the central point about which the trial revolved.

The public prosecutor in preparing this step in the procedure had at his disposal all of the pièces, notes et renseignements both for and against the prisoner that had accumulated in his dossier through the efforts of the clerks in the offices of the tribunal. Until the pace of the tribunal became too rapid to permit an adequate study of these documents, the public prosecutor in the preparation of the cases seemed to give careful consideration to all available evidence. Anyone familiar with the masses of evidence that passed into the hands of the tribunal would be constrained to admit that no institution of the revolution was confronted with a more tedious task; nor did any institution, in all probability, work harder than did the administrative personnel of the tribunal in the performance of its duty.

Inasmuch as the acte d'accusation depended so largely upon the evidence submitted with the case, some conception of the

¹W 8, No. 390; W 18, No. 757; W 19, No. 1013; W 24, No. 1417; W 32, No. 1923; W 41, No. 2773; W 44, No. 2911; W 50, No. 3299; W 57, No. 3474.

nature and variety of this evidence must be obtained before the preparation or character of the acte can be adequately understood. It must be also understood that since this evidence was almost in its entirety submitted to the tribunal by revolutionary institutions associated with it in its operation, there was a natural tendency on the part of the tribunal to give full credence to this evidence.

The complaint constituted one of the most important documents à charge (for the prosecution) in the dossier of the accused. Most of the complaints were specific in the charges that were brought, and represented, as a rule, the evidence of an eye-witness. For instance the complaint made to the revolutionary committee of the section of the Faubourg du Nord against a watchmaker in Paris charged him with statements to the effect that the municipality of Paris was composed of scoundrels, and that Marat and Robespierre were hangmen. Even when warned that his words might be fatal to him, the defendant persisted in announcing that nothing could prevent the expression of his opinion.¹ On November 1, 1793, Fouquier-Tinville received a complaint from an employee of the committee of surveillance of the department of Paris against a servant of the former minister, Roland. That servant had been so unwise as to say in the presence of two witnesses that it was a source of great happiness that Marat had been assassinated and to intimate that a similar fate might well be extended to other members of the Mountain.² More elaborate complaints were lodged against Nicolas Deville, one of the former fermiers-généraux, who was accused of having relations with an agent of the Count of Artois, of throwing suspicion upon the intelligence of the judges elected by the people, of having hidden his brother, a deserter from the National Guard, and finally of attempting, in concert with the other fermiers-généraux, to conceal his thefts from the people by falsifying the accounts.³

¹Complaint against André Deschamps, September 7, 1793, W 293, No. 296. In the preliminary hearing of October 8, Deschamps modified his position, but the tribunal was not influenced and sentence of death was pronounced on November 1, 1793.

²Complaint against Louis Le Cocq, W 381, No. 878. Le Cocq in his preliminary hearing, November 27, 1793, denied making the statements attributed to him but was sentenced to death on June 7, 1794.

³A. Tuetey, Répertoire général des sources manuscrites de l'histoire de Paris pendant la Révolution française (11 vols.; Paris, 1890-1914), Vol. XI, April 2, 1794, No. 1478.

Fouquier-Tinville either decided that the multiplicity of charges was unnecessary or he wished to reduce the charge against the fermiers-généraux to the single one of financial fraud, for in the preliminary hearing the questioning of Deville was confined to his alleged financial speculations.¹ A complaint that revealed the foolhardy conduct possible to some persons was that lodged with the Committee of General Security by three witnesses of the amazing conduct of Aimée-Cécile-Rénault. She was denounced for presenting herself one evening at the home of Duplay and demanding to see Robespierre. Upon being questioned she contended that all public figures should appear for the people, as the king always had done. Upon further questioning she stated that she would be willing to give her life to have a king again.² The possibility of some religious aberration or of an assassination plot suggested itself, and in the subsequent examination before the Committee of General Security³ and the Revolutionary Tribunal⁴ attempts were made to link this young daughter of a merchant with Catherine Théot, the alleged "mother of God," but more persistently with Henri Admiral, who had so excited public opinion by his attempt on the life of Collot d'Herbisy and his suspected plot against the life of Robespierre. There can be no serious doubt that with very few exceptions the complaints were definite and came from sources that had at least average credibility. If the charges do not seem serious enough to warrant the sentence of death, it must be remembered that the public law required it, and the tribunal's function was to judge violations of the law without question of its wisdom or ethical basis.

At a time of social tension complaints were apt to be plentiful. The only possible manner in which the truth of a complaint could be established was through testimony or other evidence of a corroborative nature. At times the tribunal--in view

¹May 7, 1794, W 362, No. 785.

²May 23, 1794, W 389, No. 904.

³May 23, 1794; Tuetey, Vol. XI, No. 2302.

⁴Mlle. Rénault submitted to several examinations before the tribunal in its effort to uncover what it suspected would be a plot against Robespierre. The examinations took place on May 24, 1794, May 25 (at 10:00 A.M. and again at 7:30 P.M.), May 28, and June 16, 1794 (W 389, No. 904).

of its function as an instrument of revolutionary justice--went beyond what might have been expected in the search for evidence. Fouquier-Tinville's constant demand for the original documents and for all the pièces, notes et renseignements has already been noted. He estimated at his own trial that the work of the tribunal had demanded of him a heavy correspondence--some eighty letters a day.¹ In answer to these demands upon the outside authorities, streams of documentary evidence and in many instances, records of oral testimony taken by the tribunal itself, flowed into the offices of the tribunal. It may be taken as an indication of the importance of the preparatory phase of the trials that the public prosecutor, following the division of the tribunal into four sections, informed the National Convention that he intended to use only two sections in the conduct of the trials, the other two to be active in the preparation of cases for formal presentation to judges and jurors.²

During the first part of the tribunal's history witnesses had frequently come to Paris to give their testimony for or against the accused. This practice became less frequent as the question of distance and the number of witnesses became more important. The tribunal relied increasingly upon the testimony secured by local authorities and brought with the accused by the gendarmerie or else sent to the public prosecutor by post under the franking privilege given to his official mail.³ The practice of direct testimony persisted, however, when distance was not an important factor, and the judges of the tribunal heard the testimony of several thousand witnesses, most of whom lived in or near Paris. Much of this testimony was given about the time of the preliminary hearing (interrogatoire). Many of the witnesses, when their testimony seemed particularly pertinent, were called back to testify anew before the assembled tribunal after the official trial got under way.

¹Testimony of Fouquier-Tinville in his own trial, P.J.B. Buchez and P. C. Roux, Histoire parlementaire de la Révolution Française (40 vols.; Paris, 1834-1838), XXXIV, 310.

²See supra, p. 18.

³Archives parlementaires, 1787-1860: recueil complete des débats des chambres françaises, Series I, 1787-1799 (82 vols.; Paris, 1879-1913) (hereafter cited as A.P.), LXIII (April 30, 1793), 617.

Among the many depositions of witnesses sent in to the tribunal a few may be cited as typical of the process. The local authorities at Sarrebourg in May, 1793, sent to the tribunal a large number of documents concerning a charge of emigration, including the declaration of witnesses in support of the alleged fact.¹ Among the most interesting items included in this particular dossier was the matter of fees owed to the huissier for summoning the witnesses to appear before the officers of the police de sûreté.² In the autumn of 1793 the justice of the peace of Tonnerre sent numerous declarations of witnesses--eighty-four had been summoned to testify--to Fouquier-Tinville. The number of witnesses was unusually large since the charges involved a public disturbance between the republican society of Tonnerre and some volunteers.³ Near the end of the year Fouquier-Tinville received the testimony in a case concerning some counter-revolutionary expressions made by the mayor of a small commune in the district of Carcassone.⁴ If instances of this nature be multiplied by the appropriate number of cases, it becomes obvious how dependent the tribunal was upon the local authorities in most of the trials arising from crimes committed at some distance from Paris.

Although the general rule was that witnesses did not come from any distance to give testimony before the opening of the formal trial, a great number of local witnesses were examined by the tribunal itself. The intention in such instances was to complete the evidence substantiating the charges made in the complaint and perhaps to increase the possibilities of discovering accomplices before they had time to attempt an escape. The preliminaries of the trial of the Hébertists presents an example of

¹Inventory of evidence against Michaud, May 31, 1793, W 6, No. 246.

²Statement of expenses , June 4, 1793; W 6, No. 246.

³Liste des témoins , n.d., justice of the peace to Fouquier-Tinville, November 13, 16, 17, and 19, 1793; W 12, No. 761.

⁴Receipt to the minister of justice, December 26, 1793; W 19, No. 984. The testimony had been given on July 31, 1793, but did not come into possession of the tribunal until late December.

such early taking of testimony.¹ The tribunal heard several hundred witnesses on that occasion. The testimony was given before a judge of the tribunal, and the record of the evidence was signed by both the judge and the witness. In this particular instance the examination of the witnesses proceeded under several definite heads of inquiry that had been set up by Fouquier-Tinville in such a fashion that very little waste motion or confusion resulted. In a similar fashion many witnesses were heard by the tribunal and by the revolutionary committees before the beginning of the trial of Henri Admiral, suspected of a plot against Robespierre.²

In addition to the oral testimony of witnesses examined by the tribunal and the written evidence submitted by local authorities, Fouquier-Tinville frequently had in his possession material evidence of a documentary nature as an aid in constructing the acte d'accusation. The tribunal received a large number of cases involving such charges as emigration, correspondence with the émigrés and with the enemies of the country, and illegal traffic in assignats. Crimes of this nature usually involved a number of incriminating letters, forged passports, and papers evidencing transactions in assignats. These were sent to the tribunal as exhibits in the case whenever they were discovered. Other criminal acts yielded occasional evidence of a similar nature. Many of these cases could be classified as "crimes of opinion"--including such charges as propos contre-révolutionnaires and conspiracy³--where documentary evidence such as pamphlets and letters was frequently discovered and sent to the tribunal.

When evidence of this nature was placed at the disposal of the tribunal, the oral testimony of the witnesses often became a matter of secondary importance. It was in keeping with the practice of supplying available evidence that the national commissioner of Beauvais sent to Fouquier-Tinville two samples of faulty

¹W 76, 77, and 78.

²W 389, No. 904.

³According to the classification made by Greer (The Incidence of the Terror during the French Revolution: a Statistical Study [Cambridge, 1935], Table IV, p. 152) almost two thirds of all the death sentences by the tribunal were pronounced for the broad charges of counter-revolutionary opinions and conspiracy. The next largest group of slightly over one-tenth was for intelligence with the enemy. The convictions for emigration totalled only 2 1/2 per cent of the death sentences.

supplies that the national agent and a local merchant had been furnishing to the military hospitals.¹ Two pro-royalist pamphlets containing a protest against the trial of Louis XVI figured as evidence in a trial of an alleged royalist group of Rouen during the summer of 1793.² On February 5, 1794, a national agent sent to Fouquier-Tinville over 11,000 livres in counterfeit assignats found on an agent of the émigrés, who had brought them into France and was attempting to distribute them.³ A few months later at Boulogne-sur-Mer three counterfeit assignats had been traced to a soldier and sent as evidence to the tribunal.⁴

One important part of the evidence supplied to the tribunal was intended to inform the tribunal not of the circumstances of the crime but of the position which the suspected criminal occupied in his community. The frequent appearance of such personal information in the trial of the cases before the tribunal was on order of the Committee of General Security. The reports were submitted on printed forms known as tableaux supplied to the local authorities by the committee. In the appropriate columns the revolutionary authorities supplied the name, age, and residence of the suspect, with similar information--very important in cases involving emigration--concerning any children of the suspect. If the suspicions of the authorities had progressed to the point of arrest, the date of the arrest and the place of detention were supplied along with information about the charges in the case and the responsibility for issuing the warrant of arrest. The tableaux also gave the economic status of the accused both before and during the Revolution and the sources from which his income was derived. Perhaps as important as any information were the conclusions of the authorities preparing the report upon the character and opinions of the suspect as well as the sort of persons with whom he had habitual relations; especially damning, of course, was the existence of any liaisons with

¹April 16, 1794, W 30, No. 1723.

²W 9, No. 402. The two printed pamphlets, one of eight pages and the other of sixteen, presented impassioned arguments for the legal impossibility and the political inadvisability of trying the King.

³W 75, No. 4025.

⁴W 35, No. 2212.

groups or individuals generally considered as enemies of the revolution. Though tableaux were not provided for all of the cases, no other document in the archives of the tribunal so completely constitutes a portrait of the suspect from a revolutionary point of view.¹

While most of the documents supplied to the tribunal were evidence for the prosecution, evidence for the defense was by no means precluded. Such documents à décharge or pièces justificatives² took almost as many forms as those à charge, but there was a pronounced tendency for them to appear in the form of mémoires³ drawn by the defendant and addressed to the public prosecutor or the president of the tribunal. One suspect had so well prepared his case that an inventory of the documents presented on his behalf ran to thirty-two different entries.⁴ An ingenious device was used by a prisoner from Lyon, who prepared a defense based upon the use of two columns: on the left hand side he entered each of three charges against himself and on the right hand, at greater length, he entered his refutation.⁵ The efforts of the popular societies to rescue patriots who had been falsely accused also constituted a most effective evidence for the defense.⁶ In one case at least the tableau was used as an instrument for the acquittal of a former priest.⁷ The voice of the defense, while not a loud one, was not stifled during the first year of

¹The tableaux followed a strict pattern. Typical examples may be found in that made by the revolutionary committee of Dunsur-Loire, July 27, 1794, W 51, No. 3308 bis; that by a committee of surveillance of the district of Versan, n.d., W 44, No. 2933; and that by the committee of surveillance of Terrasson, n.d., W 45, No. 2959.

²N.d., W 41, No. 2741; July 22, 1794, W 47, No. 3114; January 24, 1795, W 57, No. 3455.

³June 9, 1793, W 5, No. 225; December 26, 1793, W 18, No. 757; January 17, 1794, W 20, No. 1069; July 17, 1794, W 32, No. 1957; October 22, 1794, W 47, No. 3112.

⁴Inventory of pièces justificatives, W 37, No. 2398.

⁵Observations on various accusations . . . , n.d., W 6, No. 244.

⁶See supra, p. 93. (This reference is to the complete dissertation, which is to be found in the University of Chicago Libraries.)

⁷Tableau . . . , n.d., W 39, No. 2619.

the tribunal's operations.

In the transmissal and handling of such a large number documents confusion and loss were constant threats. To keep these dangers at a minimum the local authorities usually sent with the documents an inventory,¹ which would enable the office of the tribunal to discover the absence of any of the individual pieces, and required of the tribunal a receipt for delivery. Once in the office of the tribunal the various clerks were responsible for the proper handling of the documents and their allocation to the proper dossiers.

This office of the tribunal, known as the parquet, was divided into seven sections and each section was assigned its particular task. The first section received all correspondence, acknowledged its receipt, and sent it immediately to those charged with filing it or placing it in its proper dossier. This section was required to send all orders concerning witnesses immediately to the public prosecutor and issue receipts for letters received and sent. A second section was to receive all the documentary evidence and issue a receipt to the authorities who sent it and the gendarme who delivered it. This section prepared warrants for arrest and issued orders to hold the accused, in prisons of other tribunals or to send him to Paris by a route which it indicated. It also prepared the order for the release of prisoners and for the lifting of the seals that had been placed upon seized papers or personal effects. The counsel for the defense received permission from this office to visit his client,² and

¹The inventories were outlines of the way in which the local authorities prepared the cases. For instance in a case involving the charge of emigration sent by the local authorities of Sarrebourg the inventory discloses the inclusion of seventeen documents as evidence to support the charge. Among these documents were such items as the following: a letter by the accused written while he was out of France, a diary, a passport delivered at Prague, another at Schafhausen, and a third at Basle, a bill for lodging, the minutes of his arrest and his examination by the justice of the peace, the summonses of witnesses and their testimony, the issuance of a warrant for his arrest, his examination before the director of the grand jury, and its decision that he be sent to the Revolutionary Tribunal. Inventory of evidence against Louis Michaut, ca. May 17, 1793, W 6, No. 246.

²W 95, No. 6. The tableau of duties assigned to the members of the prosecutor's office, from which the information in this paragraph has been taken, is unsigned and undated, but the

medical officers were required by this section to make reports on certain prisoners. The formation of the dossiers was entrusted to the third section, which was also required to see that all materials sent by the various committees to aid in this work were returned to them. From the warden of the prison a daily account was sent for the information of this section concerning all prisoners released or added. The summoning of witnesses for the various cases and the responsibility for seeing that they appeared at the proper time was attributed to the fourth section. An exact register of approaching trials and the witnesses who were to appear in each was to be maintained and an examination made of the prison reports to prevent the summoning of witnesses against defendants who had been fortunate enough to be released by order of the Committee of Public Safety or the Committee of General Security. The fifth section was charged with the examination of the dossier of each case and the separation of the evidence for conviction from that for acquittal. A precise analysis was to be made of the evidence and the plan of the indictment was to be formed. The sixth and seventh sections were to be available for copying and sending to national and local authorities extracts of judgments and also for any other clerical work that might be needed. Despite this rather elaborate organization it was inevitable that the increased activities of the tribunal should result in many lapses and errors in caring for the great mass of documents that the tribunal both received and created.

On the whole, however, there would seem to be no doubt that the drawing of the indictment by Fouquier-Tinville or by one of his assistants rested upon a firm foundation of evidence provided by complaints, examination, depositions, documentary evidence, tableaux, and any other evidence for the defense or for the prosecution that might be available. The acte d'accusation represented the central legal core about which the trial revolved. If it was based upon an adequate array of testimony, the margin of possible injustice was scarcely greater than that to which the regular tribunals were liable. During the period when the Revolutionary Tribunal took cognizance of all the evidence available to the office of the public prosecutor, its distinguishing mark was

reference to the counsel for defense seems to place it before the law of 22 Prairial, year II.

not any revolutionary quality in its procedure but the fact that it applied penalties of a final nature upon the basis of revolutionary law. For with the exception of the period from June 10 to August 1, 1794, the public prosecutor, with infrequent exceptions, exercised a commendable restraint in the preparation of the formal charges and the judges and jurors exhibited a sense of responsibility in hearing and evaluating the testimony.

The acte d'accusation established the general content of the trial by setting forth the formal charges against the defendant or defendants. For example, the charges against Adam Lux on November 1, 1793, covered a multitude of alleged acts and sentiments, any one of which would have been sufficient for conviction. He was accused of being the author of a brochure in praise of Charlotte Corday, of maliciously provoking civil war with his seditious writings, of suggesting that a dictator was necessary and that Roland alone was capable of this position, and of attempting to weaken the authority of the existing government.¹ The acte against Charlotte Corday, on the other hand, was much simpler since she was charged only with a premeditated attack upon the representatives of the nation in the person of Marat.² One of the most complicated of the actes was drawn against the fermiers généraux; thirty defendants were charged with the commission of counter-revolutionary crimes, which in turn were divided into eight separate but related categories.³ When the trial had pronounced political significance, in accordance with the law requiring that the Convention accuse its own members, Fouquier-Tinville, who on the whole was very assiduous in the personal preparation of the actes, accepted for the tribunal a formulation of the charges perfected in the committees of government. The charges against the Girondins were those formulated by a joint committee of the Committees of General Security and of Legislation,⁴ while in the trial of Danton the public prosecutor adopted the charges read to the Convention by Saint-Just.⁵ Although several months frequently elapsed between the arrest of

¹W 293, No. 213.

²July 16, 1793, W 277, No. 82.

³May 5, 1794, W 362, No. 785.

⁴A.P., July 26, 1793, LXIX, 542.

⁵W 342, No. 648.

the defendant and the preparation of the acte d'accusation, once that important document was ready, the trial of the accused before the Revolutionary Tribunal followed quickly.

In preparation for the public trial the prosecutor delivered to the gendarmerie attached to the service of the tribunal an order for the delivery of the suspect. Upon the authority of this order the warden of the prison in which the suspect was being held surrendered him to the gendarmerie for safe conduct to the Revolutionary Tribunal.¹ Upon the appearance of the defendant the trial was formally opened by the establishment of his identity. He was requested to give his name, age, residence, and occupation or status. With the satisfaction of the tribunal upon these points the greffier proceeded to the reading of the acte d'accusation, after which the public prosecutor might, if he chose, call the attention of the judges and the jurors to certain aspects of the case that seemed worthy of special consideration. At the completion of these initial formalities the tribunal turned its attention to the examination of the accused, the witnesses, and the documentary evidence.

It was this portion of the trial which consumed most of the time. When it looked as if the trial of Brissot and his associates (October 24-31, 1793) might be prolonged, the Convention adopted the rule that the jury might bring the trial to a close by declaring at any time after the third day of the formal trial that they were sufficiently enlightened and desired to proceed immediately to their verdict.² But even three days could be considered too great a concession in a revolution, when time was more valuable than blood or treasure; and so the law of 22 Prairial made it possible to eliminate the oral testimony in the trial by making the hearing of witnesses unnecessary when docu-

¹Order to warden of the prison of Port Libre, October 24, 1793, W 34, No. 2138; order to the warden of the Conciergerie, April 11, 1794, W 24, No. 1425; August 14, 1794, W 44, No. 2942; and September 4, 1794, W 34, No. 2106; after 9 Thermidor the order was usually signed by one of the judges.

²Gazette nationale ou Le Moniteur Universelle (hereafter cited as Moniteur), October 30, 1793, pp. 159-60. It is interesting to note that the three day law was originally introduced in terms that would have enabled the jurors to terminate the trial at any time, and that it was on Robespierre's insistence that the jury was prevented from doing this until after the third day of the trial.

mentary or intellectual (morales) proofs of guilt existed independently of testimonial evidence.¹ During the first year, however, the tribunal was rather patient with the oral testimony, although French courts before the revolution had relied almost entirely upon written evidence, and continued to summon witnesses for both the prosecution and the defense.

The witnesses were summoned in accordance with the list (gedule) drawn up by the parquet.² The huissiers of the tribunal and the gendarmerie were entrusted with the duty of informing the prospective witness when he was to appear. If the witness lived outside the limits of Paris, the notification was sent to one of the local authorities. Witnesses living in Paris frequently appeared before the tribunal, and from time to time large numbers came even from a distance when the nature of the case demanded their presence. It will be recalled that the prospective appearance of two hundred witnesses to testify in a case involving an alleged seditious movement in Rouen prompted Fouquier-Tinville to request the permission of the Convention to augment the jury of the tribunal from the list of jurors maintained by the criminal court of the department of Paris.³

During the trial the witnesses and the accused were subject to questions directed at them by any of the judges, the public prosecutor, or any of the jurors. As a rule the presiding judge took the lead in bringing out the testimony, but the examination was apt to include the public prosecutor and frequently extended to one or several of the jurors. The greffier was responsible for recording the questions and answers. The counsel for the defense, although present, took no part in the examination of the accused or of the witnesses, but reserved his services for a short presentation of the case for the defense at the conclusion of the presentation of testimony. As time went on, the activities of this counsel became more and more perfunctory. The law of 22 Prairial abolished the office of counsel for the

¹Law of June 10, 1794, article xiii, Journal des débats et des décrets (hereafter cited as J.D.D.), No. 629, p. 352.

²A good example of such a list will be found in "État des affaires pour lesquelles les assignations sont données aux témoins," W 95, No. 1.

³A.P., LXXII, 385-86.

defense, but even before this the counsels had given up any idea of vigorous advocacy.¹

At the conclusion of the oral testimony and following the plea for the defense, the president of the tribunal phrased into a series of questions the charges upon which the jury was to give a verdict. The jury then retired into a room reserved for it. There it was supplied with the records of the tribunal containing the evidence in the case, and came to a decision concerning its reply to each of the questions formulated by the president. Upon their re-entry into the audience chamber each juror responded aloud to each question.

If the jury returned a verdict of guilty, the accused was permitted to make any observations he desired upon his personal position and the public prosecutor proceeded to an announcement of the law or laws providing the penalty or penalties to which the accused was now liable. The judgment was pronounced by the president of the court, who had received individual opinions from each of his colleagues. This judgment, contrary to popular belief, could take several forms. In addition to acquittal and death, the tribunal could pronounce a sentence of deportation or of imprisonment in irons; it might also refer the case to another court or order the continued detention of the defendant in the public interest. Whatever the judgment, the tribunal issued the proper authorization for its execution.

This procedure, when the function of the tribunal is fully understood, had in it much that was of comfort to the defendant. It seems altogether likely that the number of erroneous convictions while the above procedure was in use was not sufficiently large to justify a valid indictment against the tribunal when the proper allowances are made for the psychological strain under which much of the work was done.

Whatever error existed was undoubtedly increased by the introduction in June, 1793, of a practice of trying the accused in "batches." As a rule the first group trials observed the precaution of combining into "batches" only those who were under accusation of being accomplices in a common crime. The first trial of this character was that of some conspirators of Brittany

¹Testimony of Sezille, defenseur officieux, in the trial of Fouquier-Tinville, Buchez et Roux, XXV, 73-75.

who under the authority of the late King's brothers had formed a plot for the instigation of a royalist rebellion under the leadership of the former Marquis de la Rouarie.¹ On June 18, 1793, twelve participants in this conspiracy were executed by judgment of the Revolutionary Tribunal.² In this particular instance individual trials would not have altered the verdict, but a danger did exist should the tribunal in the future include in the "batches" individuals who were not under a common indictment. Unfortunately for the reputation of the tribunal, such mixing of accused was occurring by June 10, 1794, at a time when the danger of error was multiplied by a drastic change in the procedure.

The period from June to August, 1794, lasted less than two months out of a total tribunal history of over twenty-six months, but from the standpoint of activity rather than duration, it was more important than the earlier and subsequent periods. During that period the tribunal pronounced approximately 50 per cent of its total number of death sentences. Even before the drastic modifications in the procedure introduced on June 10, 1794, there is reason to believe that the tribunal, under the pressure of the great number of cases awaiting trial and under the revolutionary influence of the dominant committees of government, had been slowly tending toward greater speed at the sacrifice of opportunities for the defense. But even if that were so, the sudden increase in the average number of daily executions following June 10 emphasizes the effect of the law of that date in bringing about a fundamental change in procedure.

The law of June 10 eliminated the preliminary hearing as a part of the procedure unless there existed some special reason for believing that in a particular case it would be conducive to the discovery of the truth.³ The virtue of the jurors in the formal trial was substituted for the counsel for the defense on the theory that the honesty and patriotism of the jurors would prevent the successful prosecution of any true patriot.⁴ From

¹An interesting account of the conspiracy may be found in Buchez et Roux, XXV, 191-95.

²*Ibid.*, XXVIII, 232.

³Law of June 10, 1794, article xii, *J.D.D.*, No. 629, p. 352.

⁴Same, article xvi, *ibid.*

the point of view of time, the great economy of the new procedure was the abolition of the necessity for the oral testimony of witnesses in cases in which the tribunal was in possession of documentary evidence or of sufficient evidence to constitute moral certainty as to the reputation of the accused. The tribunal might hear the oral testimony of witnesses only if this would be of value in the possible apprehension of accomplices or if some major consideration of the public interest seemed to demand it.¹ In cases in which the tribunal decided to hear witnesses there was to be no distinction in summoning between the witnesses for the prosecution and those for defense,² and all testimony given would be oral except where distance made it impossible for a witness to attend in person.³ An accused against whom no legally justified charges existed was no longer to be released by the public prosecutor alone but only by a decision of the tribunal, subject to review by the Committees of General Security and Public Safety.

Even these changes might not have greatly damaged the commendable record that the tribunal had established for itself during the first year of its history, for even without the preliminary hearing, the rights of the defense, and the hearing of the witnesses during the trial, the tribunal still had at its disposal the documentary evidence reposing in the dossier of each of the prisoners. From the very beginning this evidence had been of the greatest importance and even now a fuller reliance upon it would not have resulted in noticeable deterioration in the quality of the justice dispensed by the tribunal. The shortening of the procedure, however, was more than made up by the increase in the number of defendants appearing before the tribunal, with the result that the officers of the tribunal had less and less time to put on a study of evidence accumulated in the dossiers of the defendants. The value of the documentary evidence was thus reduced by the physical impossibility that the public prosecutor should examine this evidence adequately in the preparation of the charges or that the jurors should more than casually consider it in the formulation of the verdict. Yet even with the possibilities of

¹Same, article xiii, ibid., p. 352.

²Same, article xiv, ibid. ³Same, article xv, ibid.

evil that haste introduced, there is no reason to assume that the result was a wholesale corruption of the judicial integrity of the court. Even in the trial of Fouquier-Tinville, some nine months after this period, those who testified against him out of their intimate knowledge of the tribunal could cite, though there was obvious incentive for sensational charges, only a few instances in which there had been evident injustice.

Despite the untrustworthiness of evidence at the trial of Fouquier-Tinville, the testimony of the witnesses in this case constitutes the best single source for a reconstruction of the procedure of the tribunal during the period from June 10 to August 1. It would appear that, with the elimination of the preliminary hearing, the defendant was customarily brought by a huissier from the prison to the tribunal on the morning of his trial.¹ As a rule, the acte d'accusation had been drawn up the preceding day; and a copy was given to the defendant that evening, or, when there had been great pressure on the morning of the trial.² It seems possible from the speed of the work, from the evidence of a former secretary of Fouquier-Tinville, and that of an assistant clerk of the tribunal that one of the abuses arose from the fact that occasionally an acte d'accusation was drawn up with the name blank and that the name of some person condemned to death was filled in later.³ In a few such instances⁴ individuals were executed who, if guilty at all, were not guilty of the charge upon which the judgment was based.

Upon his arrival in the Salle de l'égalité or the Salle de la liberté where the two sections of the tribunal sat, the de-

¹Testimony of Fouquier-Tinville, Buchez et Roux, XXIV, 440.

²Testimony of Leclerc, huissier of the tribunal, ibid., p. 419.

³Testimony of Duchateau, former secretary of the parquet, ibid., p. 446; and that of Wolf, commis-greffier, ibid., p. 448.

⁴No estimate of frequency was indicated but the prevailing impression given by the testimony was that the blanks did not occur often. The infrequency of occurrence is further indicated by the fact that Advenier, another former secretary of the parquet, testified that he had seen no acte without the proper surname, although often the given names, ages, and status of the individual were lacking. Ibid., XXXV, 11.

fendant identified himself by answering to his name called from a list by one of the judges. The practice of trying the prisoners in batches was not a new one but leading up to and following June 10 the habit was extended by including in the same batch defendants who were not linked with each other in any way. To reduce the confusion that would arise from the simultaneous trial of several persons, indicted for different crimes, a list was prepared of those who were to appear and a copy was given to each judge and to each juror.¹ In the larger batches the essence of the trial was apt to reduce itself largely to the problem of the proper identification of the defendants, for often, despite the intercession of Fouquier-Tinville, Dumas, the president of the tribunal, would not allow the defendant to speak beyond answering to his name.²

At the completion of the identification, the reading of the acte d'accusation, and any defense which the accused might be permitted to make for himself, the president directed the questions formulated by the bench to the jurors, who retired to their room for consultation. The serious charge was made that in certain of the important cases the jury represented the deliberate choice of Fouquier-Tinville rather than the result of their choice by lot,³ but it seems impossible to settle the charge. Regardless of whether they represented a selection by lot or by choice, the jurors upon their retirement for deliberation embodied the last chance of the defendant for a consideration of the evidence presented to the tribunal in his behalf.⁴ Fouquier-Tinville insisted in a mémoire prepared while he was awaiting trial that he had always supplied the jury during its deliberations with all of the evidence both for the prosecution and the defense, crayoned and marked, and carried to the jury room by one of the huissiers

¹Testimony of Lèclerc, ibid., XXXIV, 419.

²Ibid., p. 420. There was apparently much bitterness between Dumas and Fouquier-Tinville. The former appears a more ruthless man than the public prosecutor and must bear a large share of the opprobrium for any mistakes made by the tribunal during this period.

³Testimony of Wolf, ibid., p. 453. This practice was alleged to have begun even before June 10, 1794.

⁴Testimony of Ducret, public counsel, ibid., p. 484.

of the tribunal.¹ Leclerc, a huissier, substantiated Fouquier's claim that the evidence was regularly available to the jury,² but again the speed with which the verdicts were determined precluded any recourse by the jurors to the documents in question. Upon the announcement of the verdict sentence was pronounced, and upon its certification to the greffier, the proper orders were given for its execution.³

It must be accepted as a fact that the proportion of mistakes made by the tribunal after June 10 increased. But even with the increase it is not established that innocent persons suffered in any large numbers from the judgments of the court, though that is possible. It must also be acknowledged that the mistakes which occurred did not come so much from the new procedure as from the speed with which the tribunal operated. For where time existed to prepare the case properly from the available written evidence and to identify the accused, it seems altogether likely that the elimination of the oral procedure worked no great hardship upon the defendant and his chances for acquittal. An increase in the number of decisions given by a court per day makes an increase in the number of mistakes more likely under any system of procedure.

One other consideration remains, however, even after the question of the procedure has been given its due weight in the activities of the court, and that is the question of the spirit which animated the officers of the tribunal in the adjudication of the cases. In the final analysis the operation of the tribunal was more a matter of personalities than of techniques. In this connection it is significant to note two factors in June, 1794, that combine to explain a great deal of the subsequent history of the tribunal. One factor was the increasing professional attitude of the public prosecutor, judges, and jurors, most of whom had by then been in the service of the tribunal for at least eight months. This professional spirit resulted in a ruthlessness which eliminated the hesitation and caution that would have characterized less experienced officers. To the professional spirit was joined a growing awareness of the social mission of

¹Ibid., p. 256. ²Testimony of Leclerc, ibid., p. 419.

³Testimony of Wolf, ibid., p. 449.

the revolution and an increasing tendency to use the tribunal as an instrument of class war. A discussion of this tendency, however, must await the concluding chapter.

Within a few days of the execution of Robespierre, who had been placed hors de la loi by the Convention and therefore needed merely to be identified before the tribunal, the procedure of the tribunal reverted, by order of the Convention, to that which had characterized it before June 10.¹ The speed of operation dropped to the rate which had prevailed in the spring of 1793 and the proportion of acquittals rose even higher. By the time that the tribunal underwent its last reorganization and adopted a procedure fully prescribed by law (December 28, 1794),² the work of the tribunal had slowed almost to a standstill. No better proof for the dissipation of the zeal that had once provided the tribunal's energy need be advanced than the fact that the longest trial of the tribunal's twenty-six months of history was that of Fouquier-Tinville and twenty-three of his former associates. The trial opened on March 28, 1795, and the verdict was given on May 6.³ On May 31, 1795, on the recommendation of the Committee on Legislation and by decree of the Convention, the Revolutionary Tribunal was abolished.⁴

¹Supra, pp. 110-27.

²Law of December 28, 1794, J.D.D., No. 827, pp. 98-106.

³E. Campardon, Histoire du tribunal révolutionnaire de Paris (2 vols.; Paris, 1862), II, 427-508.

⁴Moniteur, June 4, 1795, p. 1034.

